

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 28, 2002

IN RE:

**APPROVAL OF THE AMENDMENT TO THE
INTERCONNECTION AGREEMENT
NEGOTIATED BY BELL SOUTH
TELECOMMUNICATIONS, INC. AND
TRIVERGENT COMMUNICATIONS, INC.
PURSUANT TO SECTIONS 251 AND 252 OF THE
TELECOMMUNICATIONS ACT OF 1996**

DOCKET NO. 01-01095

ORDER APPROVING AMENDMENT TO THE INTERCONNECTION AGREEMENT

The Petition for Approval of the Amendment to the Interconnection Agreement Negotiated Between BellSouth Telecommunications, Inc. and Trivergent Communications, Inc. Pursuant to the Telecommunications Act of 1996 came before the Tennessee Regulatory Authority (the "Authority") at the February 5, 2002 Authority Conference. The Amendment was filed on January 16, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

The original Interconnection Agreement between these parties was filed on August 18, 2000 and was assigned Docket No. 00-00736. The Authority approved the Agreement at the October 24, 2000 Authority Conference. The first Amendment to the Agreement was filed on May 10, 2001 and was assigned Docket No. 01-00420. The Authority approved this Amendment at the July 10, 2001 Authority Conference. The parties filed a second Amendment on November 30, 2001 and a third Amendment on January 16, 2002. These Amendments were assigned Docket No. 01-01041, and the Authority approved the Amendments at the January 23,

2002 Authority Conference. The parties also filed a fourth Amendment on January 16, 2002; however, this filing was assigned Docket No. 01-01095. It is this fourth Amendment that is the subject of this Order.

Based upon the Petition, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Amendment and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The Amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The Amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

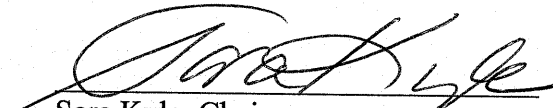
Amendment is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.²

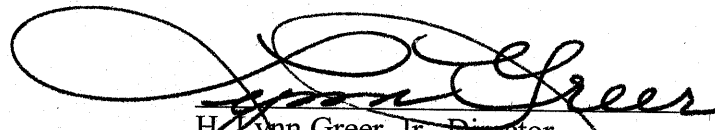
5) No person or entity has sought to intervene in this docket.

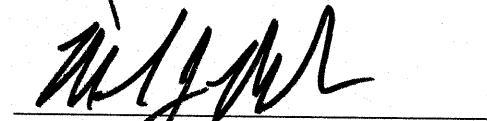
6) The Amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

IT IS THEREFORE ORDERED THAT:

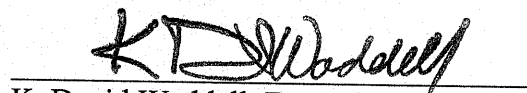
The Amendment to the Interconnection Agreement negotiated between BellSouth Telecommunications, Inc. and Trivergent Communications, Inc. is approved and is subject to the review of the Authority as provided herein.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

² The Authority has issued a request to BellSouth Telecommunications, Inc. requesting that it provide to the Authority a detailed filing explaining any provisions of the interconnection agreement that differ from previous Authority decisions. BellSouth Telecommunications, Inc. has not responded to this request.